

From: [Michael Lawless](#)
To: [E-OHPSCA-STOPLOSS.EBSA](#)
Cc: [Roger.Baron@usd.edu](#)
Subject: Statement Concerning Stop Loss Insurers by Professor Roger M. Baron of May 22, 2012
Date: Wednesday, May 23, 2012 12:18:32 PM
Attachments: [ACS Recovery Services.doc](#)

I completely agree with and endorse Prof. Baron's comments. Recently *ASC Recovery Services* tried to recover over \$74,000.00 through what I believe was mail fraud and what I believe to be their misrepresentation of the "self insured" nature of the Plan they were seeking recovery for. They threatened and threatened but never entered an appearance or formally objected to the state Court ordering the auto defendants insurance carrier American Family to disregard their claimed lien.

I am attaching one of a series of letters that I sent on my client's behalf to illustrate what we deal with on these ERISA cases in general and including the Stop Loss cases too and how these recovery services blatantly misrepresent and bully but obviously when they don't have the facts or law on their side they back away at the end.

Unfortunately there are some less experienced attorney's out there that believe these representations and believe they must honor these claimed liens to the financial detriment of their clients and for the wrongful gain of others.

Thank you for consideration of my thoughts.

Mike Lawless, Sr.

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ADMITTED IN
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OFFICE ALSO LOCATED:
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January 17, 2012

Michele Baril
ACS Recovery Services
P.O. Box 4003
Schaumburg, IL 60168-4003

Re: Robert B. _____ Jr.
Your Case ID: _____
Date of Loss: 01.16.2009
Your Client: CIGNA HealthCare

Dear Ms. Baril:

This letter responds to your letter dated January 5, 2012, the latest in a series of letters claiming a lien pursuant to the Employee Retirement Income Security Act of 1974 (ERISA) 29 U.S.C. Sec. 1001 et seq. Your firm also claims state anti-subrogation laws are preempted.

I believe that the facts clearly show that there is no valid legal or bona fide ERISA lien in this case. I have reviewed the freeERISA.com site and obtained copies the IRS Form 5500 filings for the years 2009 and 2010. These filings clearly show that Mr. _____'s former wife's employer PRA INTERNATIONAL, INC. through it's PRA INTERNATIONAL, INC. GROUP MEDICAL AND DENTAL PLAN is funded by insurance. Information concerning insurance contract coverage includes coverage through Connecticut General Life Insurance Company and Affiliates. CIGNA HealthCare is a division of CIGNA Corporation that markets and underwrites the products offered by Connecticut General Life Insurance Company. All of the billing records I have reviewed for the various treatments received by Mr. Swarthout reflect payments by CIGNA and write offs by CIGNA.

Currently I have reached a settlement agreement with American Family Insurance and they prefer for the Court to approve our settlement without consideration of this claimed ERISA lien. Enclosed please see the Notice of Hearing for February 9, 2012 at 3:00 p.m. at the Johnson County Court House, Olathe, Kansas where I will obtain an Order from the court having jurisdiction in this matter for my client to take his settlement free of this alleged ERISA lien.

If your wish to prove me wrong in my assertions herein then I invite you and your client and the Plan to provide me with the following documents:

- All underlying plan documents, agreements and contracts which established the plan.

- The plan's three digit identifying number.
- The summary plan description and any amendments thereto for the year 2009 and all subsequent years.
- The declaration pages of all insurance contracts affecting the plan for each year since 2009 including, but not limited to, stop-loss and reinsurance coverage.
- The plan's IRS Form 5500s (and schedules) filed in each from 2009 to the present
- All written (and oral) policies, memoranda, minutes of meetings and any other written documentation addressing reimbursement or subrogation, and enforcement or waiver of the same from the date of establishment of the plan until the present.
- All written or oral policies implemented by the plan with respect to assisting your insured's in pursuing third-party actions by way of subrogation
- A full and complete detailed itemization of all payments made by the plan to health care providers for the benefit of your insured arising out of the injury on January 16, 2009.

I will assume that if you do not timely respond to my request for documents that you do not have a right to subrogation or reimbursement, or, if you do have such a right do not intend on exercising that right and make any claim.

If you do intend on exercising subrogation or reimbursement claims please supply me the requested documents to prove to me your Plan's legal entitlement thereto.

TAKE NOTICE AND GOVERN YOURSELF ACCORDINGLY.

Very truly yours,

Michael R. Lawless, P.A.

MRL/\kb

Cc: Mr. Robert B. _____, Jr.
Cathie Bacca, Plan Administrator